

SENATE BILL 1137

By Herron

AN ACT to amend Tennessee Code Annotated, Title 63, Chapter 6 and Title 71, Chapter 5, relative to the practice of telemedicine.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 6, Part 2, is amended by adding a new section thereto, as follows:

Section 63-6-232.

(a) As used in this section, unless the context otherwise requires, "telemedicine" means the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications.

(b) Prior to the delivery of health care by means of telemedicine, the physician who has ultimate authority over the care or primary diagnosis of a patient shall obtain written informed consent from the patient. The informed consent procedure shall ensure that the following information is given to the patient verbally and in writing:

(1) The patient reserves the option to withdraw or withhold consent at any time without affecting the right to future care or treatment nor risking the loss or

withdrawal or any program benefits to which the individual would otherwise be entitled;

(2) A description of the risks, consequences and benefits of telemedicine;

(3) All existing confidentiality protections apply;

(4) Patient access to all medical information transmitted during a telemedicine consultation is guaranteed, and copies of this information are available for a reasonable fee; and

(5) Dissemination of any patient identifiable images or information from the telemedicine interaction to researchers or other entities shall not occur without the consent of the patient.

(c) A patient shall sign a written statement prior to the delivery of health care by means of telemedicine, indicating the patient understands the written information provided pursuant to subdivision (b) and that this information has been discussed with the physician or the physician's designee.

(d) The written statement signed by the patient shall become part of the patient's medical record.

(e) If the patient is a minor, or is incapacitated or mentally incompetent to an extent that such patient is unable to give informed consent, the provisions of this section shall apply to the patient's representative.

(f) The provisions of this section relative to informed consent shall not apply when the patient is not directly involved in the telemedicine interaction. Informed consent from a patient is not required when a physician consults with another health care provider.

(g) The provisions of this section relative to informed consent shall not apply in an emergency situation in which the patient is unable to give informed consent and the representative of that patient is not available.

SECTION 2. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding a new section thereto, as follows:

Section 71-5-191.

(a) It is the intent of the general assembly to recognize the practice of telemedicine as a legitimate means by which an individual may receive medical services from a health care provider without person-to-person contact with such health care provider.

(b) Upon the effective date of this act, face-to-face contact between a health care provider and a patient shall not be required under the TennCare program for services appropriately provided through telemedicine, subject to reimbursement policies developed by the TennCare program to compensate licensed health care providers who provide health care services through telemedicine that are otherwise covered by TennCare. All audio and visual telemedicine systems used shall adequately complete all necessary components to document the level of service provided.

SECTION 3. This act shall take effect July 1, 2001, the public welfare requiring it.